

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Lyle E. Devore, Jr., et al	Group Art Unit: 2173
Serial No.: 10/674,127	Examiner: Watt, Chris A.
Filed: 9/29/03	Attorney Docket: 2063.013800
For: Method And Apparatus For Status Display With Intermediate Database Access	Client Docket: VS-00608C
	Confirmation #: 4275

REQUEST FOR RECONSIDERATION

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This Request is submitted in response to the Board's decision dated December 7, 2009 for which the two-month date to respond is February 7, 2009. The filing date of this Request for Reconsideration is less than two months from the date of the Decision and is timely filed.

It is believed that no fee is due for filing this Request; however, if our understanding is incorrect or should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed material the Commissioner is authorized to deduct said fees from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/2063.013800.

Applicants requests reconsideration of the Board's decision on the grounds set forth below.

I. STATUS OF THE CLAIMS

On appeal, the Board affirmed all rejections, in which claims 10-11, 16-18, 20-23, 25-30, 34-41, 43-44, and 48-70 were rejected as obvious under 35 U.S.C. §103(a) by U.S. Patent

Publication No. 2002/0052954 (“Polizzi *et al.*”) in combination with U.S. Patent Publication 2002/0186257 (“Cadiz *et al.*”). The rest of the claims had previously been canceled.

II. ARGUMENT IN SUPPORT OF REQUEST

As the Board correctly noted (“Decision on Appeal”, p. 8), the principal issue in the case is whether Cadiz *et al.* teaches an “intermediate datasource” as is recited in each of the independent claims. In support, Applicants point to three paragraphs of Cadiz *et al.* which the Board acknowledges in its decision. (*Id.*, p. 10) The Board fails to even address the teachings of these paragraphs. The Board instead misconstrues three paragraphs of Cadiz *et al.* for the proposition that it does, indeed, teach the limitation.

The Board’s decision is essentially contained in a single paragraph, which states:

On consideration, we do not agree with the Appellants’ contentions. Primary data, for example the stock values or availability of a person, is available to and accessed by the programming in the ticket, as required by the claims. The displayed information, or information accessed by the processor, is, in some teachings of Cadiz, an iconic representation of the data sent to the ticket, which is developed by and in the ticket. For example, the primary data on a person’s availability may come from MSN Messenger (¶[0185]). But the iconic display of the person facing the user or looking away comes from the ticket (¶[0182]). A similar argument is made concerning the icon of the stock information: the basic data comes from Internet sources, but the shrinking icon depending on that information is displayed from the ticket (¶[0092]). Thus some information comes from the ticket, and it acts as an intermediate data source.

(“Decision on Appeal”, p. 10) The Board, like the Examiner, misconstrues Cadiz *et al.* with respect to the “ticket”.

The Board unequivocally states that the ticket “...acts as an intermediate data source” because “the shrinking icon [depends] on that information is displayed from the ticket.” (“Decision on Appeal”, p. 10) That is, the Board holds that the icon is a display of the information in the ticket. This is directly repudiated by Cadiz *et al.* itself, which clearly describes the content of a ticket.

Cadiz *et al.* very clearly describes the information that comprises a “ticket” and it is not the data to be displayed:

In general, a ticket 210 is a combination of the information or contact that a user desires to keep track of along with a definition of how the user desires to view that particular information or contact. ***The term "ticket" 210 is used herein to describe an extensible markup language (XML) structure, or similar language structure that defines the content of an item 200 within the container 250, such as a "sidebar" described in further detail below. In particular, a ticket 210 consists of two portions: one that is common to all types of items, including, for example, a control name, CLSID of an ActiveX.RTM. (or other scripting language) control associated with the ticket, a URL or file path for where to obtain the code or script control if it is not locally installed, etc.; and one that varies based on the type of the ticket, including parameters specific to that ticket type, such as, for example, what type of viewer 220 is required to display the information or contact defined by the ticket. While tickets 210 in accordance with the present invention use ActiveX.RTM. controls, it should be appreciated that many other scripting languages may be used to create controls or instructions in place of ActiveX.RTM. controls.***

(Cadiz et al., ¶[0077], emphasis added) This description defines the "ticket", and it does not contain the information to be displayed. Rather, a ticket comprises executable instructions for retrieving the data to be displayed. Should there be any confusion, Cadiz et al. provides an example:

For example, particular information of interest to a user may be statistical information relating to a particular electronic file. Given this trivial example, the user may be interested in knowing how many people have read the electronic file, or whether it has been modified. ***Consequently, the customizable ticket 210 for watching or tracking the electronic file that the user is interested in includes instructions for using one or more of the services 230 for linking or connecting to the electronic file, i.e., one of the information sources 240, via any of a number of conventional electronic communications methods. Further, where the electronic file of interest resides locally, on the user's own computer, for example, the ticket 210 may include instructions for accessing, watching or tracking the file information directly without requiring the use of a service 230.***

(Cadiz et al., ¶[0080], emphasis added) That is why the specification repeatedly refers to "information represented by the ticket". (Cadiz et al., ¶[0017], ¶[0021], ¶[0023], ¶[0064]-¶[0065], ¶[0090], ¶[0105]-¶[0106], ¶[0109], ¶[0166], ¶[0169]-¶[0170])

It is clear that the Board failed to consider these teachings in arriving at its holding if for no other reason that these teachings repudiate the Board's construction. Also, notably, the Board failed to cite any of these paragraphs. "It is well settled that a prior art reference is relevant for all that it teaches to those of ordinary skill in the art." *In re Fritch*, 23 U.S.P.Q.2d (BNA) 1780, 1782 (Fed. Cir. 1992); M.P.E.P. §2141.02 VI. In determining patentability, one simply cannot ignore parts of references or pertinent parts of the prior art. *Fritch*, 23 U.S.P.Q.2d (BNA) at 1782. Thus, the Board's holding affirming the rejections is founded on a clear legal error.

III. CONCLUDING ARGUMENT

Wherefore, Applicants request that the affirmance be reconsidered and prays that the rejections be **REVERSED**, and prays that the claims be allowed to issue.

Respectfully submitted,

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